



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Moore, Steven J.	Art Unit:	3725
Serial No.:	09/638,012 (Reissue Request of U.S. Patent No. 5,795,209)	Confirmation No.	8813
Filing Date:	August 14, 2000	Examiner:	Miller, Bena
Title:	Package Amusement Device and Method	Docket No.:	122995-72252.1

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below:

Date: February 2, 2008

Steven J. Moore
(Type or Print Name of Mailer)


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**AMENDMENT IN TANDEM WITH RCE REQUEST
IN RESPONSE TO:**

***ADVISORY ACTION OF JANUARY 28, 2009
AND
THE OFFICE ACTION OF OCTOBER 23, 2008***

I. INTRODUCTORY COMMENTS

• **REQUEST FOR CONSIDERATION OF RESPONSE**

This “AMENDMENT,” filed concurrently with a request for continued examination (RCE), replies to the outstanding office action in this case, and distinctly and specifically points out the errors in the Examiner’s action, as well as responds to every ground of objection and rejection set forth in such office action. This response is a bona fide attempt to advance the application to final action. In light of the amendments and remarks set forth

below, Applicant requests that the Examiner reconsider the Examiner's stance with respect to the patentability of the claims and Applicant seeks further examination of the application. Applicant hereby requests that any objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated.

- **REQUEST FOR, AND PAYMENT OF, EXTENSION FEE**

A one month extension fee is believed to be due with this filing. Applicant herein requests that such one month extension be granted. Payment for such extension is included herein on a confidential "Credit Card Payment Form." If Applicant is incorrect in his assessment as to the number of extension fees due, Applicant respectfully requests that he be granted an appropriate extension from the shortened statutory period for response, and that he be notified by telephone to provide the appropriate authorization to charge a personal credit card.

- **LOCATION OF SPECIFIED SECTIONS FOR SCANNING OF THIS DOCUMENT**

SECTIONS OF DOCUMENT	LOCATION OF SECTION
I. INTRODUCTORY COMMENTS	Pages 1 – 4
II. AMENDMENTS TO THE SPECIFICATION	Pages 5
III. AMENDMENTS TO THE CLAIMS	Pages 6 - 8
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VI. APPENDIX	Pages 15

- **REQUEST FOR ENTRANCE OF AMENDMENTS AND CONSIDERATION OF ARGUMENTS**

Applicant respectfully requests entrance of the amendments, and consideration of his arguments set forth below. Amended/new claims that may be construed as more limiting in scope than the scope of any of the claims prior to amendment/cancellation/addition should

not be construed as an abandonment of any subject matter no longer claimed, nor should the amended/new claims be construed in any manner to waive or limit the equivalent structures of any element recited in such claims that would otherwise be available under the Doctrine of Equivalents with respect to the unamended/canceled claims.

Amendment/cancellation/addition of the claims is not in any manner intended to, and should not be construed to, waive Applicant's right in the future to seek protection for the subject matter claimed in prior claims, or to seek protection for similar matter in any continuation, divisional, continuation-in-part, RCE, or any other application claiming priority to or through the present application. Applicant expressly reserves the right to file applications directed to the subject matter covered by any canceled or previously submitted claim, as well as any uncovered subject matter disclosed in the specification.

INTERVIEW OF JANUARY 22, 2008

Applicant acknowledges his telephone call to the Examiner of January 22, 2008, wherein Applicant discussed with the Examiner an Amendment-After-Final that he had filed in the hope of finishing prosecution in this case. Applicant noted that reissue prosecution has been extending for nearly nine (9) years, and urged the Examiner to aid Applicant in drafting subject matter that would be found allowable by the Examiner. Applicant noted that the prolonged prosecution in this case would soon make any patent issuing thereon moot given the 20 year patent term from the earliest filing date. Applicant also noted his need to keep paying maintenance fees on the reissue patent while the reissue prosecution continued.

Applicant appreciates the Examiner's aid in the interview. With the exception of the language "associated with," which the Examiner indicated was too vague, the Examiner indicated to Applicant that amendments made to claims 1 and 15, in limiting the "enclosing shell" to an "egg-shell" disclosure, likely placed the claims in condition for allowance. In regards to claim 21, the Examiner suggested the claims be drafted more carefully to indicate that in this embodiment that certain features were fabricated into the packaging material making up the packaging box. Such embodiment claim was drafted to overcome the Examiner's suggestion that that the box described in Wilk, United States Patent No. 5,304,096, could be considered a "packaging box" for gifts etc.. The Examiner indicated that a new search might be necessary. In respect to claim 22, the Examiner urged that the

“electronic triggering device” limitation be removed, arguing that it added new matter in the sense that such limitation was not specifically recited in the specification. The Examiner suggested that the “packaging means” of claim 22 be limited to a group of items such as in claims 1 and 15, and if the applicant desired to select a detector that detects motion as the detection means that such be specified in the claim (the Examiner indicating that the latter also helped in defining a patentable distinction).

The Examiner noted that as the Examiner’s Advisory Action in response to Applicant’s Amendment-After-Final would be mailed on the last day of three months from the Office Action of October 23, 2008, and that another filing might be necessary.